

10/756,862

-6-

REMARKS

As requested by the Examiner, the paragraph previously added on page 1 of the specification relating to priority has been amended to recite the number of the patent which issued from the parent application.

Reconsideration of the action taken in the Office Action mailed August 4, 2004, is requested for the following reasons.

Claim 19 has been rejected under 35 USC 103(a) as not being patentable over Applicant's statement at page 1, first 2 paragraphs (as originally filed, i.e., before entry of the Preliminary Amendment), of the specification in view of U.S. patent 5,770,530 to Nockemann et al, the Examiner stating that Nockemann et al discloses a tarpaulin comprising an inner layer of pliable cut resistant material 20 sandwiched between outer layers of a different material 14 and 24 which may be said to provide the feel of a blanket since they are made of a textured fabric and non-woven textile respectively and that it would not have been unobvious to use the Nockemann et al tarpaulin in the process (using tarpaulins to cover a person before removal from a vehicle involved in an accident) discussed by Applicant on page 1 of the specification. Each of the other pending claims has also been rejected under 35 USC 103(a). Applicant respectfully disagrees and respectfully requests reconsideration for the following reasons.

The present invention is directed to protecting a person from flying glass during extrication of the person from a vehicle involved in a collision, wherein a protective blanket is placed over the person to protect the person from flying glass during such extrication of the person from the vehicle. Not only is it important that the person be protected from flying glass but it is also desirable that the protective blanket be comfortable. However, materials providing the necessary cut resistance (which,

10/756,862

-7-

as discussed at page 4, lines 27 to 29, is, by definition, at least about 0.9 kg.) normally are rough to the touch, not aesthetically pleasing, and may be flimsy so that they do not have the feel and comfort of a blanket. In order to provide a comfortable protective blanket having such a rough cut-resistant material, one or more protective cut-resistant pliable inner layers of such rough cut-resistant material is sandwiched between outer-most layers of pliable buffer material which has a softness and body providing the feel of a blanket. Thus, the protective blanket of the present invention can have the desirable comfort of a blanket as well as the necessary protective cut-resistance.

As disclosed by Applicant on the first page of the specification, accident victims have been covered with whatever was available at the time, such as tarpaulins as well as rags and household blankets, to protect them from flying glass during their extrication from the vehicle.

As also stated by Applicant on the first page of the specification, these coverings such as tarpaulins do not protect the victim as adequately as desired. Thus, the victim is still vulnerable to further injury from flying glass. In addition, as discussed in greater detail hereinafter, a tarpaulin does not have the desired softness and feel of a blanket.

Nockemann et al discloses an anti-vandalism protective layer for car seats, car roofs, convertible tops, car tarpaulins, tents, supporting air parts, wall linings, shatter-proof walls, and bullet-proof vests. Referring to FIG. 1 thereof, the protective layer comprises a cover layer 12 which may be the external exposed surface or to which textured fabric or filament material (seat upholstery) 14 is applied. Beneath the cover layer is non-woven textile layer 16 of fine filaments which is bonded by adhesive 18 to the cover layer. Beneath layer 16 is a cut-resistant knit layer 20. To hold the cut-resistant layer to

10/756,862

-8-

the non-woven textile layer 16, fibers of the non-woven are needled into the cut-resistant layer. It is stated at col. 4, lines 30 to 33, thereof that so much of the fibers of the non-woven layer are needled through the cut-resistant layer that they form another layer 24 of fibers of the non-woven at the opposite surface of the cut-resistant layer. At col. 3, lines 55 to 57, thereof, it is indicated that a non-woven layer 24 is optional. A vehicle seat generally includes a cushioning foam layer 42 which is shown in FIG. 1 to engage layer 24.

At col. 5, lines 38 to 45, thereof, Nockemann et al discloses a cushioning material prepared for working or a material for car convertible tops, car tarpaulins, tents, supporting air parts, wall coverings, shatter proof walls, and bullet proof vests. The cushioning material is produced using a cover layer 12 comprised of a woven fabric or of a foil which is bonded to the non-woven layer so that this material can be worked directly in a customary manner.

Fig. 1 of Nockemann et al shows a car seat portion, not a tarpaulin, having the anti-vandalism protective layer disposed between the cushioning foam layer 42 of the seat and the seat upholstery 14 to protect the foam layer from vandalous cutting. See col. 4, lines 5 to 11, of Nockemann et al. Thus, a tarpaulin is not shown in the drawings of Nockemann et al.

Moreover, Nockemann et al does not characterize its protective layer or its cushioning material as a tarpaulin. Instead, Nockemann et al merely discloses that its protective layer or cushioning material may be used for car tarpaulins. Thus, as stated at col. 3, third paragraph, thereof, its protective layer is "for" car tarpaulins as well as numerous other items, and, as stated at col. 5, lines 38 to 45, its cushioning material is "for" car tarpaulins as well as numerous other items.

10/756,862

-9-

The term "tarpaulin" is defined in Webster's New World Dictionary of the American Language, Second College Edition, Simon & Schuster, 1980, as "a) waterproof material, specif., canvas coated with a waterproofing compound b) a sheet of this spread over something to protect it from getting wet." The term "canvas" is defined as "a closely woven, coarse cloth of hemp, cotton, or linen, often unbleached, used for tents, sails, etc."

In accordance with the above definitions, it is respectfully submitted that the inner layer of pliable cut resistant material 20 sandwiched between outer layers of a different material 14 and 24 is not a tarpaulin. The definition requires that these layers constitute waterproof material in order to constitute a tarpaulin, and Nockemann et al does not disclose these layers to be of waterproof material. Also, with reference to spreading a tarpaulin over something to protect it from getting wet, the definition states that a tarpaulin is "a sheet" of material and does not state that it is a composite of two or more sheets.

The Examiner references col. 3, lines 12 to 18, and col. 4, lines 14 to 47, of Nockemann et al for his assertion that the layers 14, 20, and 24 constitute a tarpaulin. But this reference clearly indicates that the layers 14, 20, and 24 are not a tarpaulin, i.e., the protective layer is "for" car tarpaulins as well as car seats and other items (see col. 3, line 13).

Furthermore, there is no disclosure in Nockemann et al of a combination of the protective layer of Nockemann et al with a tarpaulin which would provide a protective blanket which comes within the present invention. Thus, a tarpaulin is composed of canvas, which is coarse and therefore does not have the softness and body providing the feel of a blanket. See the above definitions of tarpaulin and canvas. Nockemann et al does not disclose, for example, whether the tarpaulin would be an inside layer or an outside layer in such a combination.

10/756,862

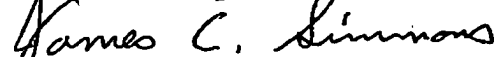
-10-

Thus, Nockemann et al does not disclose either a tarpaulin or even a tarpaulin in combination with other material which would provide a protective blanket which comes within the present invention.

Neither Applicant's discussion relative to tarpaulins on page 1 of the specification or Nockemann et al or any other of the references of record, whether taken together or individually, teaches or suggests protecting a person from flying glass during extrication of the person from a vehicle involved in a collision, wherein a protective blanket is placed over the person, the blanket having at least one inner layer of pliable cut-resistant material and outer-most layers of pliable buffer material between which the at least one inner layer is sandwiched, the buffer material being different from the cut-resistant material and having a softness and body providing the feel of a blanket, as claimed in claim 19, in order to provide the necessary protective cut resistance in a protective covering for the person which desirably has the comfort of a blanket. Therefore, it is respectfully submitted that claim 19 is unobvious over the prior art and therefore patentable. Since each of the remaining claims pending in this application is dependent on claim 19, it is respectfully submitted that they are also patentable.

Since each of the claims has been shown to be patentable, it is respectfully submitted that this application is in condition for allowance, and such is respectfully requested.

Respectfully submitted,



James C. Simmons

Reg. no. 28,474

Enclosure

The Law Office of James C. Simmons

11 Falmouth Lane

Williamsville, NY 14221

Phone 716-632-7702